

REPORTS ANALYSIS REFERRAL
TO
OFFICE OF GENERAL COUNSEL

DATE: November 14, 2006

ANALYST: Robin Kelly

- I. COMMITTEE: Raese for Senate Committee
C00182089
James Michael Troy, Treasurer
P O. Box 262
Morgantown, WV 26507
- II. RELEVANT STATUTE: 2 U.S.C. §434(a)(6)(B)
11 CFR §§400.9(a) and 400.21(a)
- III. BACKGROUND:

Millionaire Provision Reporting Problems (Failure to timely file 24-Hour Notice of Expenditure from Candidate's Personal Funds)

Raese for Senate Committee ("the Committee") failed to timely file two (2) 24-Hour Notices of Expenditure from Candidate's Personal Funds (FEC FORM 10) after exceeding the \$414,720.00 reporting threshold amount established for West Virginia Senatorial Candidates¹ (Attachment 2).

On February 10, 2006, John Reeves Raese ("the Candidate") filed a FEC FORM 2 (Statement of Candidacy) with the Senate Public Records Office. The "Declaration of Intent to Expend Personal Funds" portion of the form disclosed \$0.00 on line 9(a) (Declaration of Intent to Expend Personal Funds for the Primary Election). (Image 26020141279)

On April 14, 2006, the Committee filed the 2006 April Quarterly Report covering the reporting period January 1, 2006 through March 31, 2006 (Image 26020182442). The report disclosed the receipt of two (2) loans from the Candidate

¹ The threshold amount for Senate candidates is calculated using a formula that includes the voting age population (VAP) multiplied by \$0.08. Specifically the calculation for West Virginia is ((1,434,000 x \$0.08) + \$300,00 00 = \$414,720.00).

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totaling \$125,000.00 on line 13(a) (Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 26020182444). Specifically, the Committee received a \$35,000.00 loan on January 31, 2006 and a \$90,000.00 loan on March 24, 2006. Both Candidate loans were designated for the 2006 Primary Election (Image 26020182495).

On April 24, 2006, the Candidate filed an Amended FEC FORM 2 (Statement of Candidacy) via fax with the Commission. The "Declaration of Intent to Expend Personal Funds" portion of the form disclosed \$250,000.00 on line 9(a) (Declaration of Intent to Expend Personal Funds for the Primary Election) (Image 26039054367).

On April 27, 2006, the Committee filed the 2006 12 Day Pre-Primary Report covering the reporting period April 1, 2006 through April 19, 2006 (Image 26020310764). The report disclosed three (3) loans from the Candidate totaling \$300,000.00 on line 13(a) (Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 26020310766). The Committee received a \$30,000.00 loan on April 7, 2006, a \$200,000.00 loan on April 11, 2006, and a \$70,000.00 loan on April 19, 2006. All three loans were designated for the 2006 Primary Election (Image 26020310804). The \$70,000.00 loan received by the Committee on April 19, 2006 brought the total expenditures from the candidate's personal funds for the 2006 Primary Election to \$425,000.00, thereby exceeding the reporting threshold of \$414,720.00 for West Virginia Senate Candidates (Attachment 2).

On May 3, 2006, the Committee filed a FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds) disclosing three (3) expenditures of personal funds for the 2006 Primary Election totaling \$250,000.00 on lines 10(a) through 10(c) (Expenditures of Personal Funds). The first itemized expenditure was a \$70,000.00 candidate loan with a reported expenditure date of April 19, 2006. The \$70,000.00 candidate loan triggered the reporting threshold and thus the FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds) was filed thirteen (13) days late. The second itemized expenditure was a \$100,000.00 candidate loan with a reported expenditure date of April 27, 2006. This loan was filed five (5) days late. The third itemized expenditure was an \$80,000.00 candidate loan with a reported expenditure date of May 3, 2006. The FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds) for this expenditure was filed timely (Image 26039070245).

On June 13, 2005, a Request for Additional Information (RFAI) referencing the 2006 April Quarterly Report was sent to the Committee. The RFAI noted that when a committee reports receiving a loan from the candidate it is necessary to clarify whether the candidate used personal or borrowed funds (Image 26039100013).

On June 15, 2006, the Committee filed an Amended 2006 April Quarterly Report. The amendment disclosed that the \$125,000.00 in loans reported on the 2006 April Quarterly were from the candidate's personal funds (Image 26020370346).

On June 27, 2006, the Committee filed an Amended 2006 12 Day Pre-Primary Report. The amendment disclosed that the \$250,000.00 in loans reported on the 2006 12 day Pre-Primary were bank loans secured by stock owned by the Candidate (Images 26020390478-80).

On July 15, 2006, the Committee filed the 2006 July Quarterly Report covering the reporting period of April 20, 2006 through June 30, 2006 (Image 26020423159). The report disclosed the receipt of five (5) loans from the Candidate totaling \$475,000.00 on line 13(a) (Loans Made or Guaranteed by the Candidate) of the Detailed Summary Page (Image 26020423161). The Committee received a \$100,000.00 loan on April 27, 2006 and an \$80,000.00 loan on May 3, 2006, both designated for the 2006 Primary Election (Images 2602043179 26020423186). The Committee also reported the receipt of three (3) loans designated for the 2006 General Election; a \$35,000.00 loan on May 16, 2006, a \$125,000.00 loan on May 26, 2006 and a \$135,000.00 loan on June 23, 2006 (Images 26020423180-82).

On July 20, 2006, a Request for Additional Information (RAFI) referencing the FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds) dated May 3, 2006, was sent by RAD to the Committee. The RAFI noted that the FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds) for the \$70,000.00 expenditure received on April 19, 2006 and the \$100,000.00 expenditure received on April 27, 2006 appeared to have been filed outside of the required time frame (Image 26039144208).

On August 21, 2006², a Committee letter was received regarding the RAFI sent on July 20, 2006. The Treasurer, James Michael Troy, stated in the letter "In the midst of last minute planning...the committee received and deposited a \$70,000 loan from a bank...I did not realize at the time that the April 19 loan brought the candidate's cumulative loan balance to \$425,000 exceeding by \$10,280 the millionaire amendment West Virginia threshold amount of \$414,720." Mr. Troy further stated in his letter that "At that time I believed [the] FEC Form 2 was the only reporting requirement." The letter went on to explain that on April 27, 2006, Mr. Troy received and deposited the \$100,000 loan and was still unaware of the FEC FORM 10 filing requirement. The letter also stated that on May 3, 2006, when the Treasurer became aware of the FEC FORM 10 filing requirements, he filed FEC FORM 10 for the above referenced loans and for a new \$80,000.00 loan. In closing the letter, the treasurer highlighted that "...I am certainly inexperienced with the new and complex millionaire amendment rules. Recognizing the complexity of the regulations, I engaged expert advisors in a good faith effort to ensure the Committee's compliance. Apparently, my communication to them about the candidate's loans was ineffective for them to ensure there was no error in my filings." (Image 26039171336)

² Please note that the Committee also filed a duplicate letter of explanation with the Secretary of Senate on August 22, 2006 (Image 26020610379)

On August 24, 2006, the RAD analyst returned a call back request to the Treasurer. Mr. Troy wanted to inform the Analyst that he had sent in a response to the RFAI request regarding the late filing of the FEC FORM 10 (24-hour Notice of Expenditure from Candidate's Personal Funds). He stated that at the time he did not realize that an FEC FORM 10 was required. Mr. Troy highlighted that once he became aware of the FEC FORM 10 requirement; all subsequent filings were reported timely. He informed the Analyst that the failure to file the FEC Form 10 on time was an inadvertent mistake on his part.

To date, no further communication has been received from the Committee regarding this matter.

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RAESE, JOHN REEVES

ID #S4WV00084

RAESE FOR SENATE COMMITTEE
JAMES MICHAEL TROY
FILING FREQUENCY: QUARTERLY

PO BOX 262

MORGANTOWN

SENATE
WV 26507

ID #C00182089

FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
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1		A		2/10/2006	7	26020140987						
MS		4		4/27/2006	6	26020310505						
MS		4		4/27/2006	4	26020310818						
MS		4		5/02/2006	4	26020311165						
MS		4		5/02/2006	6	26020311212						
MS		X		5/03/2006	3	26039070244						
MS		4		5/04/2006	5	26020311307						
MS		X		5/04/2006	4	26020313030						
MS		4		5/05/2006	7	26020312205						
MS		X		5/16/2006	3	26039081605						
MS		X		5/17/2006	4	26020332340						
MS		X		5/26/2006	3	26039091323						
MS		X		5/26/2006	4	26020351248						
MS		X		6/23/2006	3	26039101928						
MS		X		6/26/2006	4	26020390350						
MS		X		8/07/2006	3	26039162562						
MS		X		8/07/2006	4	26020592977						
MS		X		8/10/2006	3	26039163621						
MS		X		8/11/2006	3	26039163874						
MS		X		8/11/2006	4	26020610654						
MS		X		8/11/2006	4	26020610658						
MS		X		8/18/2006	3	26039170579						
MS		X		8/19/2006	4	26020610650						
MS		T		8/21/2006	3	26039171336						
MS		T		8/22/2006	4	26020610377						
MS		X		8/30/2006	3	26039173866						
MS		X		8/31/2006	4	26020662953						
MS		X		9/08/2006	3	26039180848						
MS		X		9/08/2006	4	26020671220						
MS		X		9/29/2006	3	26039192492						
MS		X		9/29/2006	4	26020691881						
MS		X		10/02/2006	3	26039192519						
MS		X		10/02/2006	4	26020692990						
MS		X		10/12/2006	3	26039210565						
MS		X		10/13/2006	4	26020852781						
MS		X		10/20/2006	3	26039240979						

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FORM TYPE	RPT TYPE	AI	PGI	REC DATE	PGS	BEG IMAGE	COVERAGE DATES	BEG CASH	RECEIPTS	DISBURSE	END CASH	DEBTS BY
MS		X		10/20/2006	4	26020880457						
MS		4		10/20/2006	5	26020880461						
MS		X		10/20/2006	4	26020891526						
MS		4		10/24/2006	4	26020891329						
MS		X		10/26/2006	4	26020930501						
MS		X		10/26/2006	3	26020930505						
MS		X		10/26/2006	3	26020930508						
MS		X		10/26/2006	3	26020930511						
MS		X		10/26/2006	3	26020930514						
MS		X		10/26/2006	3	26020930517						
MS		X		10/26/2006	3	26020930520						
MS		X		10/26/2006	3	26020930523						
MS		X		10/26/2006	3	26020930526						
MS		X		10/26/2006	3	26020930529						
MS		X		10/26/2006	3	26020930532						
MS		4		10/26/2006	4	26020922565						
MS		4		10/27/2006	4	26020952512						
MS		4		10/31/2006	4	26020970903						
MS		4		11/03/2006	4	26020973296						
RQ		4		7/20/2006	3	26039144208	7/20/2006					
RQ		4		9/28/2006	3	26039191967	9/28/2006					
RQ	Q1	2		6/13/2006	3	26039100012	1/01/2006 3/31/2006					
3	Q1	N		4/14/2006	92	26020182442	1/01/2006 3/31/2006	0	264440	212878	51561	541870
3	Q1	A		6/15/2006	4	26020370346	1/01/2006 3/31/2006	-	-	-	-	-
3	12P	N		4/27/2006	54	26020310764	4/01/2006 4/19/2006	51561	338384	262813	127132	841483
3	12P	A		6/27/2006	16	26020390471	4/01/2006 4/19/2006	51561	338384	262813	127132	841483
3	Q2	N		7/15/2006	184	26020423159	4/20/2006 6/30/2006	127132	714525	658013	183644	1416898
3	Q3	N		10/15/2006	308	26020741969	7/01/2006 9/30/2006	183644	1237066	1278462	142248	2287803
3	12G	N		10/26/2006	117	26020923361	10/01/2006 10/18/2006	142248	275735	344394	73589	2500978

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TOTAL								2830150	2756560			
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Raese for Senate Committee (C00182089)**Candidate Expenditures for 2006 West Virginia Primary Election**

Expenditure Amount	Type	Receipt Date Listed on Report	Report Disclosed On	Aggregate Total for Primary Election	Form 10 Filed?	Date Form 10 Filed	# Days Late
\$35,000.00	Loan	1/31/06	Q1 2006	\$35,000.00	N/A	N/A	N/A
\$90,000.00	Loan	3/24/06	Q1 2006	\$125,000.00	N/A	N/A	N/A
\$30,000.00	Loan	4/7/06	12P 2006	\$155,000.00	N/A	N/A	N/A
\$200,000.00	Loan	4/11/06	12P 2006	\$355,000.00	N/A	N/A	N/A
\$70,000.00	Loan	4/19/06	12P 2006	\$425,000.00	Y	5/3/06	13
\$100,000.00	Loan	4/27/06	Q2 2006	\$525,000.00	Y	5/3/06	5
\$80,000.00	Loan	5/3/06	Q2 2006	\$605,000.00	Y	5/3/06	Filed Timely